UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>24 May 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>13-30</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>13-30</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments, see pages 2-3 of **REMARKS**, filed 4/10/2008, with

respect to the rejection(s) of claim(s) 13-30 under 35 U.S.C. 102(b) have been fully

considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of

Uema et al. (USP 6,471,088).

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 13-20 and 23-30 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

- The term "large number" in claim 13 is a relative term which renders the claim

   indefinite. The term "large number" is not defined by the claim, the specification

   does not provide a standard for ascertaining the requisite degree, and one of

   ordinary skill in the art would not be reasonably apprised of the scope of the

   invention. It is suggested that the applicant substitute the term --plurality-- for

   "large number".

- Claims 14-20 depend from claim 13.

- The term "large number" in claim 23 is a relative term which renders the claim indefinite. The term "large number" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is suggested that the applicant substitute the term --plurality-- for "large number".

- Claims 24-28 depend from claim 23.

- The term "large number" in claim 29 is a relative term which renders the claim indefinite. The term "large number" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is suggested that the applicant substitute the term --plurality-- for "large number".

- Claim 30 depends from claim 29.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

6.   Claims 13-14, 17-18, and 29 are rejected under 35 U.S.C. 102(b) as anticipated

by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Uema et al. (USP

6,471,088).

Regarding claim 13, Uema et al. disclose an automatic drug dispenser

comprising:

- a drug cassette (51) which ejectably accommodates drugs;

- a base unit (52) which detachably supports the drug cassette and drives a motor

  (61) to eject drugs;

- a drug feeder storage (1,26) which is designed to store a large number of base

  units (see Figures 1-3);

- a reading device (71) which is provided in each of the base units and reads

  identification information assigned to the drug cassette; and

- a checking means (76) which compares a result of reading with pre-stored check

  data (see column 7 lines 42-45), wherein

- a set of a microprocessor (64) and a memory (68), or a microprocessor with a

  built-in memory (68) is mounted in each of the base units, and the checking

means and the check data are built in each microprocessor in a distributed

manner.

Regarding claim 14, Uema et al. disclose the automatic drug dispenser according

to claim 13, wherein, if the result of comparison indicates matching failure, the base unit

suspends motor-driven ejection and causes associated information to be output (see

column 8 lines 16-22).

Regarding claim 17, Uema et al. disclose the automatic drug dispenser according

to claim 13, wherein the base unit (52) is provided with a plurality of indicators (66,67),

the microprocessor is provided with a communication means (see Figure 13), and at

least one of the indicators displays a drug ejection enabled state and at least one other

of the indicators displays a communication enabled state indicating that communication

is enabled in the microprocessor (see column 4 lines 52-60 and column 8 lines 16-22).

Regarding claim 18, Uema et al. disclose the automatic drug dispenser according

to claim 14, wherein the base unit (52) is provided with a plurality of indicators (66,67),

the microprocessor is provided with a communication means (see Figure 13), and at

least one of the indicators displays a drug ejection enabled state and at least one other

of the indicators displays a communication enabled state indicating that communication

is enabled in the microprocessor (see column 4 lines 52-60 and column 8 lines 16-22).

Regarding claim 29, Uema et al. disclose an automatic dispenser comprising:

- a drug cassette (51) which ejectably accommodates drugs;

- a base unit (52) which detachably supports the drug cassette and drives a motor

  (61) to eject drugs;

- a drug feeder storage (1,26) which accommodates a large number of base units;

- a reading device (71) which is provided in each of the base units and reads identification information assigned to the drug cassette;

- a checking means (76) which compares a result of reading with pre-stored check data; and

- a drug dispensing controller (84) which prepares a drug ejection instruction by referring to prescription data or drug dispensing data derived therefrom and which uses the instruction for motor-driven ejection by the base unit, wherein

- the base units are classified in a first group comprising a relatively large number of base units and a second group comprising a relatively smaller number of base units, and wherein

- the drug dispensing controller preparing the drug ejection instruction includes, in the drug ejection instruction addressed to the first group, a drug feeder storage address related to the drug feeder storage, and includes, in the drug ejection instruction addressed to the second group, the check data (see column 8 lines 1-53).

7.   Claims 15-16, 19-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uema et al. as applied to claims 13-14, 17-18, and 29 above, and further in view of Yuyama et al. (USP 5,930,145).

       Regarding claim 15, Uema et al. disclose the automatic drug dispenser according to claim 13. However, Uema et al. do not specifically disclose a drug dispenser further comprising an overwriting means which overwrites the check data with the identification

information read by the reading device. Yuyama disclose a similar drug dispenser

further comprising an overwriting means (26). Therefore, it would have been obvious to

a person of ordinary skill in the art at the time of the applicant's invention to modify

Uema et al. by including in the drug dispenser an overwriting means which overwrites

the check data with the identification information read by the reading device, per the

teaching of Yuyama et al., for the purpose of providing means to transmit a writing

command signal (see column 2 lines 53-55).

Regarding claim 16, Uema et al. disclose the automatic drug dispenser according

to claim 14. However, Uema et al. do not specifically disclose a drug dispenser further

comprising an overwriting means which overwrites the check data with the identification

information read by the reading device. Yuyama disclose a similar drug dispenser

further comprising an overwriting means (26). Therefore, it would have been obvious to

a person of ordinary skill in the art at the time of the applicant's invention to modify

Uema et al. by including in the drug dispenser an overwriting means which overwrites

the check data with the identification information read by the reading device, per the

teaching of Yuyama et al., for the purpose of providing means to transmit a writing

command signal (see column 2 lines 53-55).

Regarding claim 19, Uema et al. in view of Yuyama et al. disclose an automatic

drug dispenser that is obvious over the automatic drug dispenser according to claim 15,

wherein the base unit (52) is provided with a plurality of indicators (66,67), the

microprocessor is provided with a communication means (see Figure 13), and at least

one of the indicators displays a drug ejection enabled state and at least one other of the

indicators displays a communication enabled state indicating that communication is

enabled in the microprocessor (see column 4 lines 52-60 and column 8 lines 16-22).

Regarding claim 20, Uema et al. in view of Yuyama et al. disclose an automatic

drug dispenser that is obvious over the automatic drug dispenser according to claim 16,

wherein the base unit (52) is provided with a plurality of indicators (66,67), the

microprocessor is provided with a communication means (see Figure 13), and at least

one of the indicators displays a drug ejection enabled state and at least one other of the

indicators displays a communication enabled state indicating that communication is

enabled in the microprocessor.

Regarding claim 21, Uema et al. disclose a drug feeder comprising:

- a drug cassette (51) which ejectably accommodates drugs; and

- a base unit (52) which detachably supports the drug cassette and drives a motor

  (61) to eject the drugs, wherein the base unit comprises:

- a reading device (71) which reads identification information assigned to the drug

  cassette;

- a set of a microprocessor (64) and a memory (68), or a microprocessor with a

  built-in memory, wherein

- a checking means (76) which compares check data stored in the memory with a

  result of reading by the reading device is built in the microprocessor, and wherein

However, he does not disclose a check bypassing means which temporarily suspends

checking function is built in the microprocessor. Yuyama et al. disclose a

microprocessor providing operational means including means to suspend a checking

function. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Uema et al. by including a check bypassing means which temporarily suspends a checking function that is built in the microprocessor, per the teaching of Yuyama et al., for the purpose of providing a transponder including RAM memory that is responsive to an external command signal (see column 2 lines 47-49).

Regarding claim 22, Uema et al. in view of Yuyama et al. disclose an automatic drug dispenser that is obvious over the drug feeder according to claim 21, wherein the check bypassing means includes a means for saving the check data and a means for restoring the check data or includes a means for updating a flag for switching between different operations of the check bypassing means.

Regarding claim 23, Uema et al. disclose an automatic dispenser comprising:

- a drug cassette (51) which ejectably accommodates drugs;

- a base unit (52) which detachably supports the drug cassette and drives a motor (61) to eject drugs;

- a drug feeder storage (1,26) which accommodates a large number of base units;

- a reading device (71) which is provided in each of the base units and reads identification information assigned to the drug cassette; and

- a checking means (76) which compares a result of reading with pre-stored check data (see column 7 lines 42-45), wherein

- a set of a microprocessor (64) and a memory (68), or a microprocessor with a built-in memory (68) is mounted in each of the base units, and wherein,

- in addition to the checking means which compares check data stored in the memory with a result of reading by the reading device,

However, he does not disclose a check bypassing means which temporarily suspends checking function is built in the microprocessor. Yuyama et al. disclose a microprocessor providing operational means including means to suspend a checking function. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Uema et al. by including a check bypassing means which temporarily suspends a checking function that is built in the microprocessor, per the teaching of Yuyama et al., for the purpose of providing a transponder including RAM memory that is responsive to an external command signal (see column 2 lines 47-49).

Regarding claim 24, Uema et al. in view of Yuyama et al. disclose an automatic drug dispenser that is obvious over the automatic drug dispenser according to claim 23, wherein an overwriting means which overwrites the check data with the identification information read by the reading device is built in the microprocessor.

Regarding claim 25, Uema et al. in view of Yuyama et al. disclose an automatic drug dispenser that is obvious over the automatic drug dispenser according to claim 24, wherein the microprocessor mounted in the base unit of a first group activates the check bypassing means instead of activating the overwriting means, and the microprocessor mounted in the base unit of a second group activates the overwriting means instead of activating the check bypassing means.

Regarding claim 26, Uema et al. in view of Yuyama et al. disclose an automatic

drug dispenser that is obvious over the automatic drug dispenser according to claim 23,

wherein the check bypassing means includes a means for saving the check data and a

means for restoring the check data or includes a means for updating a flag for switching

between different operations of the check bypassing means.

Regarding claim 27, Uema et al. in view of Yuyama et al. disclose an automatic

drug dispenser that is obvious over the automatic drug dispenser according to claim 24,

wherein the check bypassing means includes a means for saving the check data and a

means for restoring the check data or includes a means for updating a flag for switching

between different operations of the check bypassing means.

Regarding claim 28, Uema et al. in view of Yuyama et al. disclose an automatic

drug dispenser that is obvious over the automatic drug dispenser according to claim 25,

wherein the check bypassing means includes a means for saving the check data and a

means for restoring the check data or includes a means for updating a flag for switching

between different operations of the check bypassing means.

Regarding claim 30, Uema et al. in view of Yuyama et al. disclose an automatic

drug dispenser that is obvious over the automatic drug dispenser according to claim 29,

wherein a set of a microprocessor (64) and a memory (68), or a microprocessor with a

built-in memory (68) is mounted in each of the base units, and the checking means and

the check data are built in each microprocessor in a distributed manner, and wherein

the microprocessor mounted in the base unit of the second group is provided with and

activates an operably built-in overwriting means which overwrites the check data with

the identification information read by the reading device, and the microprocessor

mounted in the base unit of the first group is not provided with an overwriting means or

does not activate the overwriting means.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MICHAEL K. COLLINS whose telephone number is

(571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.   /Gene Crawford/
7/25/2008   Supervisory Patent Examiner, Art
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